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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 12263/2015 and C.M. Appl. No. 32477/2015**

SUCHITRA GOSWAMI

..... Petitioner

Through: Ms. Sonal Sinha and Ms. Anju Rani,
Advocates.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Sanjay Jain, ASG with Mr. Vijay
Joshi, Ms. Adrija Thakur and Mr.
Vignaraj Pasayat and Ms. Aastha
Jain, Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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06.01.2017

1. It is noted that the petitioner seeks regularization of the Government accommodation which was originally granted to her as a Government servant, and because now the petitioner has been appointed to the Niti Ayog.
2. Niti Ayog is the present substitute of the Planning Commission and the Planning Commission is listed at serial no. 48 in the list of Institutions of the Central Government, disputes of which with its employees have to be decided by Central Administrative Tribunal, Principal Bench, New Delhi.

3. Learned Additional Solicitor General appearing on behalf of the respondent/UOI does not dispute that the expression 'Planning Commission' at serial no. 48 of the list of Central Administrative Tribunal will now be substituted with 'Niti Ayog'.

4. Accordingly, this Court would not have inherent jurisdiction in view of the categorical ratio of the Constitution Bench judgment of the Supreme Court in the case of *L. Chandra Kumar vs. Union of India & Ors. (1997) 3*

SCC 261. Para 99 of this judgment reads as under:-

“99. In view of the reasoning adopted by us, we hold that Clause 2(d) of Article 323A and Clause 3(d) of Article 323B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323A and 323B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323A and Article 323B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the concerned Tribunal falls. The Tribunals will, nevertheless, continue to act like Courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the

legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the concerned Tribunal. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated.” (underling added)

5. At this stage, counsel for the petitioner states that petitioner be allowed to withdraw the present writ petition and approach Central Administrative Tribunal, Principal Bench, New Delhi.

6. Accordingly, while allowing this writ petition to be withdrawn and vacating the interim order passed therein, liberty is granted to the petitioner to approach the Central Administrative Tribunal, Principal Bench, New Delhi, including by seeking interim orders, and the Central Administrative Tribunal will hear and dispose of the matter in accordance with law.

7. The writ petition is accordingly disposed of in terms of the aforesaid observations.

A copy of the order be given dasti to counsels for the parties.

VALMIKI J. MEHTA, J

JANUARY 06, 2017

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